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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,572	02/22/2002	Thomas Hobson Outten	OUT-01	4040

7590 08/29/2003  
Ralph Bailey  
Ralph Bailey, P.A.  
125 Broadus Ave.  
Greenille, SC 29601

EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3743

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,572

Applicant(s)

OUTTEN ET AL.

Examiner

Josiah C. Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on amendment filed 6/30/03.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 7, and 8 is/are rejected.
- 7) ☐ Claim(s) 6 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. Receipt of applicant's amendment filed 6/30/03 is acknowledged.
2. The affidavit under 37 CFR 1.132 filed 6/30/03 is insufficient to overcome the rejection of claims 1-5 and 7 based upon *Jones et al.* as set forth in the last Office action because:  
  
Applicant's affidavit asserts that the benefit of his invention over the prior art of *Jones et al.* is the use of a actuation ring that increases the actuation area versus the prior art pin of Jones et al. and the ability of the actuation ring to keep the handle of a cooking utensil out of the flame. However, none of claims 1, 3-5 or 7 include limitations drawn to this use and function of an actuation ring.
3. The amendment filed 6/30/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The material disclosed in new claim 8 that the "valve is positioned on a burner side of the pivot." This material was not originally disclosed and none of applicant's figures show valve (A) positioned on a burner side of pivot (C).

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

4. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's valve (A) is not shown or described to be positioned on a burner side of pivot (C).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by *Jones et al.* (US # 5,809,990).

*Jones et al.* discloses in Figures 1-7 a method and apparatus substantially as described in applicant's claims 1, 3-5 and 7 including a mechanically operated valve (115) having gas inlet and outlet ports and positioned on the grill remove from a burner (101), a valve actuator arm (110) having a pivot (112) closely adjacent one end in spaced relation to the valve (see Fig. 1) and extending laterally beneath the burner and being spring biased (see spring loaded plunger 111 or 311) upwardly toward the burner on the other end (see col. 4, lines 14-27). The examiner

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considers that the both spring loaded plungers (111 and 311) are located adjacent to the pivots (112 and 312) (as shown in Figs. 1 and 3).

*Jones et al.* also discloses an actuator member (see rod 109 and grate 107) supported by the other end of the valve actuator arm above the burner for receiving a cooking utensil when placed on the burner (see Fig. 1) wherein the actuator arm is pivotally supported adjacent the one end. The rod (109) forms an upright component integral with the actuator arm and extends upwardly through the burner (see Figs. 1 and 3).

The examiner considers that pivot (112) is adjacent the end of the actuator arm (110) contacting the valve and forms an elongated lever member between the cooking utensil and valve. *Jones et al.* further discloses that the actuator has an upright component integral therewith (see rod 109) extending through the burner and an offset end for clearing grill support members and providing central support for the cooking utensil (see Figs. 1 and 3), and the valve is located in closely spaced relation to the pivot and remove from the other end (see Fig. 1 and note that pivot 112 is closer to the valve end than the other end).

#### ***Allowable Subject Matter***

7. Claims 6 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

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In regard to claim 6, the prior art does not teach or suggest an apparatus for shutting off the flow of gas and extinguishing the flame having the structure recited in claim 5 and further including the limitation that the actuator member is an actuator ring on the free end of the upright component and the actuator arm functions to position the actuator ring in an inclined position to receive a cooking utensil.

In regard to claim 9, the prior art does not teach or suggest the method for use of a grill as recited in claim 7 and further including the step of inclining the actuator member by the movement of the valve actuator arm to facilitate reception of a cooking utensil.

### ***Response to Arguments***

9. Applicant's arguments filed 6/30/03 have been fully considered but they are not persuasive. In regard to claim 1, as noted in item 6 above, the examiner considers that *Jones et al.* shows an upright component integral with the actuator arm extending upwardly through the burner. In regard to claim 5, as noted in item 6 above, as amended, this claim now reads on the *Jones et al.* reference.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached at (703) 308-0101. The fax phone numbers for this Group are (703) 308-7764 for regular communications and (703) 305-3463 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
August 27, 2003

  
JOSIAH COCKS  
PATENT EXAMINER  
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